

November 21, 2022

The Hendricks County Board of Zoning Appeals convened in the Hendricks County Government Center, Meeting Rooms 4 & 5, Monday, November 21, 2022. The meeting began at 7:30 p.m. Members present included Rod Lasley, Walt O'Riley, Anthony Hession, Russ Hesler and Ron Kneeland. Also, present were Greg Steuerwald, County Attorney, Tim Dombrosky, Planning Director, and Leslie Dardeen, Recording Secretary.

Everyone stood and recited the Pledge of Allegiance.

Mr. Lasley read the Rules of Procedure for the Board of Zoning Appeals meeting.

He asked for a motion to approve the minutes from the October 17, 2022 meeting.

Mr. Hesler made a motion to approve the October 17, 2022 minutes.

Mr. O'Riley seconded the motion.

Motion to approve the October 17, 2022 minutes passed.

**VOTE: For- 4                      Against- 0                      Abstained- 1                      APPROVED**  
**October 17, 2022: MEETING MINUTES**

Mr. Steuerwald presented the cases.

**VAR 25-22 Jeannine Medvescek** Variance to allow the principal dwelling to be 200 sq. ft. less than required minimum of 1500 sq. ft. on a 1.12-acre AGR-zoned parcel in Guilford Township: Section 22, Township 14, Range 1E; Key No. 06-3-22-41E 230-005; located ½ mile south of I-70 at the intersection of S CR 675 E and E CR 825 S.; 6801 E CR 825 S, Plainfield, IN 46168.

Mr. Dombrosky explained that the petitioner is working with an engineer and is in the process of developing a plot plan. He recommends continuing the case indefinitely until the petitioner is ready to be placed on the agenda; at which time they will have to renotify surrounding property owners.

Mr. Lasley asked if there were any questions or comments from the board.

Mr. O'Riley commented that he wasn't sure about continuing the case indefinitely.

Mr. Kneeland asked if they should instead continue the petition to next month.

Mr. Dombrosky responded that he did not believe the petitioner would be ready for the January meeting.

Being no further questions or comments, Mr. Lasley asked for a motion.

Mr. O'Riley made a motion to continue VAR 25-22 to the February 21, 2023 BZA meeting.

Mr. Hession seconded the motion.

Motion to continue VAR 25-22 carried unanimously.

**VOTE: For- 5                      Against- 0                      Abstained-0                      CONTINUED to Feb. 21, 2023 mtg.**  
**VAR 25-22: Jeannine Medvescek**

**SE 15-22 Martin & Wahneta Karr** Special Exception to allow an accessory dwelling unit to be added onto an existing structure on a 1.07-acre RB-zoned parcel in Guilford Township: Section 14, Township 14, Range 1E; Key No. 06-3-14-41E 295-007; located in Sycamore Estates Section 8 Lot 117; 7955 Timberwood Ct, Plainfield, IN 46168.

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Mr. Dombrosky gave an overview of the property. He reminded the board that since the property is zoned RB, the petitioner must be granted a special exception to have an accessory dwelling unit. He further reminded them that ADUs in RB-districts must share a driveway and address with the primary dwelling and be closer to the primary than the property boundaries. In this case, the petitioner is wanting to put the ADU in an existing detached garage. Mr. Dombrosky concluded that he supports the ADU and recommends approval.

Mr. O'Riley asked Mr. Steuerwald if the board has any responsibility to inform the petitioner (or future petitioners) that the BZA has no authority to override HOAs and recorded covenants.

Mr. Steuerwald responded that no matter if the BZA board approves the petition, the petitioner must abide by the covenants set by the HOA. It's up to the petitioner to get HOA approval.

Mr. Lasley invited the petitioner to address the board.

Mrs. Wahneta Karr, 7955 Timberwood Ct, Plainfield, IN 46168, addressed the board. She said that Mr. Dombrosky covered the petition, but she would answer any questions the board has.

Mr. Lasley asked if there were any questions for the petitioner.

He asked for confirmation that the petitioners are planning to put the ADU in an existing detached garage.

Mrs. Karr responded that is correct and pointed out on the map where the garage is located. She explained that they are going to extend the length of the garage for the ADU. She also stated that there is no HOA or covenants.

Mr. Lasley asked Mr. Dombrosky if there are any boundary issues.

Mr. Dombrosky replied that the accessory structure was permitted through the Planning and Building office, and any expansion of the building will have to go through the permitting process. Boundary issues are addressed and rectified through this process.

Mr. Lasley opened and closed the public portion of the meeting as no one signed up to speak.

Mr. Hession made a motion to approve SE 15-22.

Mr. Hesler seconded the motion.

Motion for approval of SE 15-22 carried unanimously.

**VOTE: For- 5                      Against- 0                      Abstained-0                      APPROVED**  
**SE 15-22: Martin & Wahneta Karr**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

### **SE 15-22**

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit **an accessory dwelling unit** in an area zoned as RB (Single Family Residential). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the County Zoning Ordinance (HCZO) Section 12.7, the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing

scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this notice and a list of those receiving them were made a part of the file for this Special Exception.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted Special Exception. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.2 Exceptions and uses. A Board of Zoning Appeals shall approve or deny all: (1) Special Exceptions; ... from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified in the Zoning Ordinance.**

**HCZO Section 12.7 authorizes the Hendricks County Board of Zoning Appeals to approve Special Exceptions.**

**HCZO Section 12.7 (D)(1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D)(2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:**

**A. Is in fact a permitted Special Exception use ... [in] the zoning district involved.**

The Board finds that an accessory dwelling unit is in fact a Special Exception in the RB Single Family Residential Zoning District.

**B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance.**

The Board finds that the proposal will meet this standard. The unit represents a reuse of property, efficient use of existing services, and a desirable outcome of increased development and demand for housing. The use is encouraged by the County's ordinances.

**C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;**

The Board finds that the proposed use will meet this standard. The Zoning Ordinance ensures uses are harmonious and appropriate. Additionally, the structure and development type are common to the setting, and the use will not substantially change the appearance of the property and will not change the essential character of the area.

**D. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.**

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The Board finds that the proposal will meet this standard. Public facilities and infrastructure are either private or will be provided at expense to the owner. Other public services adequately serve the area, and the use does not represent a significant increase in demand.

**E. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community.**

The Board finds that the proposal will meet this standard. The property changes will not result in significant changes to the existing demand for services. In fact, it represents an efficient use of existing facilities and should be promoted.

**F. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;**

The Board finds that the proposal will meet this standard. The use will not generate conditions substantially different from other residences.

**G. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.**

The Board finds that the proposal will meet this standard. The existing entrance provides adequate access.

**H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.**

The Board finds that the proposal will meet this standard. There will be no substantial loss in natural, scenic, or historic features with the approval of the business.

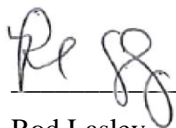
**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. All applicable federal, state, and local approvals are required.
2. No separate address will be assigned to the accessory apartment.
3. No additional driveway shall be permitted.

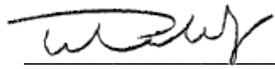
For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 21<sup>st</sup> day of November 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
Chairperson

November 21, 2022



Tim Dombrosky  
*Secretary*

**SE 16-22 Candice Anderson** Special Exception to allow a home-based FFL transfer business on an .45-acre PUD-zoned parcel in Lincoln Township: Section 08, Township 16, Range 2E; Key No. 08-1-08-62E 006-010; located in The Highlands at Eagle Crossing subdivision, Lot 247, Section 4; 5540 Noble Dr, Indianapolis, IN 46234.

Mr. Dombrosky gave an overview of the property. He reminded the board that a “home-based business” is a special exception in all residential districts as long as it meets certain criteria: no outside employment, no additional parking, minimally invasive. This petition does meet those requirements, as it will be run by the homeowner, utilizing the existing house and driveway as it is with no changes. Mr. Dombrosky specified that the property is in a PUD-zoned residential development, bordering on a commercial-zoned area. It follows the Ronald Regan Parkway alignment. He concluded that it is a special exception request that requires 9 criteria to be met, and he recommends approval.

Mr. Lasley asked if there were any questions from the board.

Being none, he invited the petitioner to address the board.

The petitioner was not present, so Mr. Lasley opened the public hearing.

The following remonstrators addressed the board:

William Long, 10236 Noble Ct., Indianapolis, IN 46234

Kendra Leatherman, 10248 Noble Ct., Indianapolis, IN 46234

Kim Austin, 10277 Noble Ct., Indianapolis, IN 46234

Freddie & Rosetha Bolden, 5570 Noble Ct., Indianapolis, IN 46234

Victoria & Dave Middlebrook, 5550 Noble Ct., Indianapolis, IN 46234

Ron & Gabrielle Dukes, 5500 Noble Ct., Indianapolis, IN 46234

Crystal & Tony Hart, 10241 Noble Ct., Indianapolis, IN 46234

Their opposition to the FFL (firearm transfer) home-based business includes several issues:

- HOA has covenants against home-based businesses that generate traffic
- Type of business is not safe for a family-oriented neighborhood with many children
- Will increase amount of traffic through the subdivision
- Detrimental to the surrounding property values
- Could potentially bring in the “wrong” type of activity and people

Mr. Lasley closed the public portion of the meeting and asked if there were any final comments from the board.

Mr. O’Riley commented that he does not believe an FFL business belongs in a neighborhood. There are plenty of commercial properties that would be better suited. He concluded by making a motion to deny SE 16-22.

Mr. Hession seconded the motion.

Motion for denial of SE 16-22 carried unanimously.

**VOTE: For- 5                  Against- 0                  Abstained-0                  DENIED**  
**SE 16-22: Candice Anderson**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

**SE 16-22**

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit a **home-based business** in an area zoned as PUD (Planned Unit Development). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the County Zoning Ordinance (HCZO) Section 12.7, the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this notice and a list of those receiving them were made a part of the file for this Special Exception.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted Special Exception. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.2 Exceptions and uses. A Board of Zoning Appeals shall approve or deny all: (1) Special Exceptions; ... from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified in the Zoning Ordinance.**

**HCZO Section 12.7 authorizes the Hendricks County Board of Zoning Appeals to approve Special Exceptions.**

**HCZO Section 12.7 (D)(1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D)(2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:**

**A. Is in fact a permitted Special Exception use ... [in] the zoning district involved.**

The Board finds that a home-based business is in fact a Special Exception in the Planned Unit Development Zoning District.

**B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance.**

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The Board finds that the proposal will meet this standard. The business meets Comprehensive Plan goals for economic development.

- C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;**

The Board finds that the proposed use will not meet this standard. The use will substantially change the function of the property and will change the essential character of the area.

- D. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.**

The Board finds that the proposal will not meet this standard. Public safety services will see an increase in demand.

- E. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community.**

The Board finds that the proposal will not meet this standard. The property changes will result in significant changes to the existing demand for services.

- F. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;**

The Board finds that the proposal will not meet this standard. The use will be disruptive and detrimental to the surrounding area.

- G. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.**

The Board finds that the proposal will not meet this standard. The property does not have an adequate design for customer traffic.

- H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.**

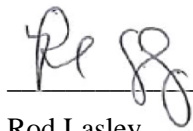
The Board finds that the proposal will meet this standard. There will be no substantial loss in natural, scenic, or historic features with the approval of the business.

**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

For all the foregoing reasons, the Board DENIED this request for a Special Exception on the 21<sup>st</sup> day of November 2022.

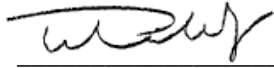
AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA

November 21, 2022



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Rod Lasley  
*Chairperson*



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Tim Dombrosky  
*Secretary*

**VAR 27-22 James Miller** Variance to allow an accessory building without a principal structure on a 27.63-acre AGR-zoned parcel in Middle Township: Section 23, Township 16, Range 1W; Key No. 10-3-23-61W 200-005; located at the intersection of E CR 350 N and E CR 375 N; Parcel #32-06-23-200-005.000-018, Danville, IN 46122.

Mr. Dombrosky gave an overview of the property. It is a very rural, very agricultural area with mostly undeveloped parcels. The site plan shows the proposed accessory structure being located in the middle of the property for storage purposes. There is no plan for a primary residence at this time. It is a variance from development standards and must meet the 3 criteria. Mr. Dombrosky reminded the board that the county ordinance does not allow any accessory buildings without a primary; however, we do allow an accessory structure if the primary building is under permitting. In that case, there is a 1-year deadline to start building the house and an additional year to complete the house. He further explained that the petitioner is not planning to build a primary structure within the 2-year window, so they are requesting a variance. As a matter of rule, he does not support these petitions because there is no way for the county to force anyone to build a house. There were no remonstrances to the petition and he does not oppose it but maintains a neutral position.

Mr. Lasley asked if the accessory was strictly for storage, or if it would have living quarters.

Mr. Dombrosky said that it would be used strictly for storage.

Mr. Lasley invited the petitioner to address the board.

Mr. James Miller, 2062 Woodstream Dr, Avon, IN 46123, addressed the board. He explained that the equipment he plans to store in the building is currently stored outdoors. He wants to have it underroof. He has worked with the surveyor to make sure that the proposed site is well outside of any drainage easements. He added that his intention is to build a house on the property sometime in the future. He would like to avoid any time constraints on building a primary residence due to construction and material costs.

Mr. Hession asked what kind of equipment he would be storing.

Mr. Miller responded that he has owned a sign installation business for the last 16 years, and the equipment he uses for that is what the accessory building is for. He assured the board that he would not be running the business from the accessory structure, just storing the equipment.

Mr. Lasley opened the public hearing.

Mr. Daryl Odom, 1894 E CR 375 W, Danville, IN 46122, addressed the board. He is concerned that creating an access to the property will interfere with the drainage tile. He also believes that any movement of dirt will cause significant drainage issues on surrounding properties.

Mr. Lasley closed the public portion of the meeting as no one else signed up to speak.

Mr. Hession asked if there were any standards to consider about drainage.



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Mr. Dombrosky responded that there is a legal drain at the front of the petitioner's property. Any construction inside of the legal drain would have to get approval from the county surveyor. The petitioner will not be allowed to obstruct it in any way.

Mr. O'Riley asked if there needs to be engineering done on the tile so that it can withstand the weight of vehicles.

Mr. Dombrosky answered that it would be up to the surveyor's office. That will be part of their review process.

Mr. Lasley asked if the petitioner wanted to respond to any of the comments.

Mr. Miller reiterated that he has spoken with the surveyor numerous times. They've discussed putting swales on the property, which has been approved. The access point to the property would be south of the "wash" area so as not to interfere with the natural flow of water.

Mr. Steuerwald suggested to the board that if they make a motion to approve this petition, they should make it subject to approval of the surveyor's office.

Mr. Hession made a motion to approve VAR 27-22 with the added condition that it meet the standards of the surveyor's office and have their approval.

Mr. Kneeland seconded the motion.

Motion for approval of VAR 27-22 carried unanimously.

**VOTE: For- 5                  Against- 0                  Abstained-0                  APPROVED w/conditions**  
**VAR 27-22: James Miller**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

VAR 27-22

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing an accessory structure without a primary in an AGR/Agricultural Residential zoning district.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.6 (C), the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above variance on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted variance. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.5 Variance from the development standards of the Zoning Ordinance. A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. A Variance may be approved under this section only upon a determination in writing that:**

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

The Board finds that the proposal will meet this standard. The building has no impact on the public health, safety, morals, and general welfare of the community.

- (2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner.**

The Board finds that the proposal will meet this standard. The structure will not be out of character with the rural residential and agricultural area, and not have an adverse impact on any of the surrounding properties.

- (3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

The Board finds that the proposal will meet the standard.

**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

1. The variance shall apply only to the construction described in the application.
2. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 21<sup>st</sup> day of November 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
*Chairperson*



Tim Dombrosky  
*Secretary to the Board*

November 21, 2022

**VAR 28-22 Andrew & Hannah Hansen** Variance to allow a 6' privacy fence with 100% opacity to remain in front yard of a corner lot on a .77-acre RB-zoned parcel in Washington Township: Section 01, Township 15, Range 1E; Key No. 12-2-01-51E 410-001; located in Prairie Manor Subdivision Lot 2; 8995 Prairie Trail, Avon, IN 46123.

Mr. Dombrosky gave an overview of the property. The construction of the home was permitted in April 2022. The site plan shows a 50' building setback from CR 900 and on the interior subdivision street. There is also a 10' utility easement along CR 900 as well as a 30' drainage easement at the back of the property. He explained that the petitioner installed a privacy fence from the front corner of the house on the property line to the back of the lot, encroaching on the 30' ROW along CR 900. The petitioner wants to leave the fence as is, which is a variance from development standards. Mr. Dombrosky believes the 3 criteria of a variance have been met and recommends approval. He added that the vision triangle where Prairie Trail and CR 900 intersect is clear and all sight standards have been met. He further commented that the petitioner could have put plants/trees in that area with no variance needed.

Mr. Lasley asked if there was a setback from the utility easement.

Mr. Dombrosky answered that for the utility easement, not the drainage easement, the county's recommendation is to not place a fence within the easement because the utility company could potentially move it or take it down if it impedes their access to the area. But the county ordinance does not have any restrictions on putting a fence within the utility easement. The ordinance does have restrictions on drainage easements. However, the petitioner's fence is not in the drainage easement.

Mr. Lasley invited the petitioner to address the board.

Mrs. Hannah Hansen, 8995 Prairie Trail, Avon, IN 46123, addressed the board. She explained that when they put in the fence, they were not aware that the road-facing side yard of a corner lot is considered a front yard. They thought they could put the fence on the property line as is allowed for non-road-facing side yards. She added that they abided by the sight triangle regulations within the subdivision covenants. She concluded that they built the fence for safety and privacy. They have young children and pets and wanted them to be able to enjoy the yard without fear of strangers and busy roads.

Mr. Lasley opened the public hearing.

The following remonstrators addressed the board:

Tim Pettigrew, 8854 Prairie Trail, Avon, IN 46123

Tracy Howard, 8809 Prairie Trail, Avon, IN 46123

Gene Reed, 8833 Prairie Trail, Avon, IN 46123

Ron Frazer, 8806 Prairie Trail, Avon, IN 46123

They all have concerns that the fence makes it very difficult to see oncoming traffic when driving out of the subdivision and pulling onto CR 900. The stop sign on Prairie Trail is approximately 5' behind the corner of the fence, so drivers have to pull passed the fence to have any view of the road or traffic. Another point of concern is that the fence could cause drainage issues for the neighborhood.

Mr. Lasley closed the public hearing as no one else had signed up to speak. He asked the petitioner if she wanted to address any of the concerns raised.

Mr. Andrew Hansen responded that they are outside of the drainage ditch. He also commented that they adhered to the sight triangle requirements that are specified in the ordinance and the HOA covenants.

Mr. Dombrosky wanted to clarify that the fence is not in the drainage easement, and therefore the issues that were raised pertaining to drainage have no relevance to the petition.

Mr. O'Riley asked that had the fence been 4' tall as allowed by the ordinance, would it have made any difference to the sight issue.

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Mr. Dombrosky responded that it is hard to say in this case. However, had the fence been 4' tall with only 50% opacity on the CR 900-facing side then a variance would not have been needed.

Mr. Lasley asked for clarification on fence height vs. sight triangle. He wanted to know if the sight triangle, although it meets ordinance requirements, is impeded due to the height of the fence.

Mr. Dombrosky responded that the sight triangle is designed to keep a specific area clear of anything that may block the view of traffic. In this case, that specific area is clear.

Mr. Kneeland asked if the fence was in the utility easement.

Mr. Dombrosky answered that it is in the utility easement.

Mr. O'Riley commented that being in the utility easement has no relevance to the petition.

Mr. Dombrosky clarified that we keep fences out of drainage easements because they block water flow and could have potential impact on many other homes. We don't keep them out of utility easements because it's at the homeowner's own risk if they choose to do so.

Mr. Lasley asked for any last thoughts or comments from the board.

Mr. O'Riley stated that if the fence is presenting a risk to the public, the board should consider that when making their decision.

Mr. Lasley asked what the ramifications would be if the board requires the petitioner to move the fence even though they are meeting the sight triangle conditions. And what happens if the board denies the petition.

Mr. O'Riley asked where public safety factored in.

Mr. Dombrosky responded that if there is a public safety risk then the petition can not be approved. But the board can make a recommendation to move the fence back to alleviate the risk. He further responded that if the board denies the petition, the petitioner can shorten the fence to 4' and 50% opacity and keep the fence with no further variance needed.

Mr. Kneeland commented that moving the fence behind the utility easement seems like a reasonable compromise. The petitioner gets to keep the 6' privacy fence, but the view of CR 900 is no longer compromised.

Mr. Steuerwald explained to the board that they have a couple of choices. They can either deny the petition all together or they can approve with the condition of moving the fence back to extend the sight requirements and eliminate the public risk.

Mr. Lasley asked for a motion.

Mr. Kneeland made a motion to approve VAR 28-22 with the added condition that the utility easement line be confirmed by the county engineer and the fence be set behind that utility easement line.

Mr. O'Riley asked how far back they would have to move the fence.

Mr. Dombrosky answered that it would be approximately 10'.

Mr. Hesler seconded the motion.

Motion for approval of VAR 28-22 carried.

**VOTE: For- 3          Against- 2          Abstained-0          APPROVED w/conditions**  
**VAR 28-22: Andrew & Hannah Hansen**

**Hendricks County Area Board of Zoning Appeals**  
Findings of Fact/Law and Conditions of Approval

VAR 28-22

An application for the above noted development standards variance was filed in the office of the Hendricks County Department of Planning and Building (DPB). The application sought to vary development standards by allowing a six foot tall 100 percent opaque fence in a front yard in an RB/Residential zoning district.

In accordance with Indiana Code (IC) 5-3-1 and the Hendricks County Zoning Ordinance (HCZO) Section 12.6 (C), the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above variance on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this courtesy notice and a list of those receiving them were made a part of the file for this variance.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted variance. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.5 Variance from the development standards of the Zoning Ordinance. A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the zoning ordinance. A Variance may be approved under this section only upon a determination in writing that:**

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

The Board finds that the proposal will meet this standard. The fence does not violate the sight visibility restrictions and is not injurious to the public health, safety, morals, or general welfare.

- (2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner.**

The Board finds that the proposal will meet this standard. The fence will be in the character of the area and will not affect the adjacent property in an adverse manner.

- (3) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.**

The Board finds that the proposal will meet the standard. The unique layout of the property and placement of the structures creates hardship in compliance with the ordinance.

**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

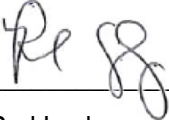
1. The fence must be moved behind the 10 Utility Easement.

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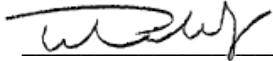
2. The variance shall apply only to the construction described in the application.
3. All other federal, state and local regulations apply.

For all the foregoing reasons, the Board APPROVED this request for a development standards Variance on the 21<sup>st</sup> day of November 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



Rod Lasley  
*Chairperson*



Tim Dombrosky  
*Secretary to the Board*

**SE 17-22 Mitchell & Allysa Alexander** Special Exception to allow a home-based excavating business on a 13.04-acre AGR-zoned parcel in Middle Township: Section 14, Township 16, Range 1W; Key No. 10-3-14-61W 426-001; located on the west side of CR 200 E approx. ½ mile north of CR 375 N; 4490 N CR 200 E, Danville, IN 46122.

Mr. Dombrosky gave an overview of the property. He explained that through a complaint, the petitioners were cited with a zoning violation for operating an excavating business from their barn. After meeting with Planning and Building and the zoning inspector and working to resolve the issue, the Alexanders decided to apply for a special exception for a home-based business, with compromise to the amount of space used and number of commercial vehicles (they will exceed both of these standards). Mr. Dombrosky gave a neutral recommendation based on not meeting all the of required standards.

Mr. Lasley invited the petitioner to address the board.

Mr. Ben Comer, Comer Law Office, LLC, 71 W Marion St, Danville, IN 46122, representing the petitioner, addressed the board. He reiterated that the Alexanders have been operating a home-based excavating business for the last 3 years. Once it was brought to their attention that this was a violation, they applied for a special exception. The extent of the business use in their barn is and will remain the storage of equipment. Their hours of operation will remain 8am-5pm on weekdays only. There will be no signage, no customer traffic, and no regular deliveries. Mr. Comer further explained that the petitioners would like to build a second accessory building so that all their equipment will be stored indoors. In doing so, they ask to exceed the size rule for accessory structures.

Mr. O'Riley asked if another building was needed to keep all equipment inside.

Mr. Comer answered yes.

Mr. Hesler asked if they bring anything from the excavating sites back to their property.

Mr. Mitchell Alexander answered that they do sometimes bring back dirt.

Mr. Lasley, referring to the site plan, asked if there are 2 access points to the property.

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Mr. Comer responded that there are.

Mr. Hession asked what kind of structure the petitioner is wanting to build.

Mr. Comer answered that right now they have a 4800 sq. ft. barn. They want to add a 1200 sq. ft. totally enclosed pole barn.

Mr. Lasley opened the public hearing.

There were 2 remonstrators to address the board:

Ryan Abbott, 4770 N CR 200 E, Danville, IN 46122

Daryl Odum, 1844 E CR 375 N, Danville, IN 46122

Their concerns included:

- Increase in traffic/heavy trucks
- Damage to roads
- Unkempt appearance of property
- Running a business without proper approvals

There were also 2 speakers in support of the special exception:

Billy Ray Alexander, 8537 N CR 275 E, Pittsboro, IN 46167

Mike Miller, 4799 N CR 200 E, Pittsboro, IN 46167

Their points of support included:

- The business will generate much less traffic than if the petitioner farmed the land
- There will be less equipment and fewer heavy trucks than a farming operation
- Well run quality business

Mr. Lasley closed the public hearing as no one else had signed up to speak. He then asked Mr. Comer if he wanted to address any of the concerns.

Mr. Comer addressed the board. He reiterated that the petitioner runs a quality business that is consciously operated. He is in favor of supporting family businesses when appropriate, and he believes this one is beneficial to the community.

Mr. Hession asked how many employees the business has.

Mr. Comer answered that there is a total of 3 full time employees.

Mr. Alexander added that he does hire additional seasonal/summer help to manage the fields.

Mr. Hession asked where Mr. Alexander sees his business in five years.

Mr. Alexander responded that he believes his business will continue to grow, and he foresees moving the business out of the area.

Mr. Comer said that Mr. Alexander would commit to no more than 3 employees in order to cap the size of the operation in its current location.

Mr. O'Riley asked how many other similar businesses were operating in the county without the proper approvals.

Mr. Dombrosky responded that it would be difficult to guess. The Planning and Building department doesn't get many complaints as this type of business is usually indistinguishable from farming operations. It happens, but unless a complaint is brought to the P&B's attention there isn't much that can be done about it.

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Being no more questions or comments, Mr. Lasley asked for a motion.

Mr. Kneeland made a motion to approve SE 17-22 with the condition of no more than 3 employees.

Mr. Hession seconded the motion.

Motion for approval of SE 17-22 carried unanimously.

**VOTE: For- 5                  Against- 0                  Abstained-0                  APPROVED w/conditions**  
**SE 17-22: Mitchell & Allysa Alexander**

## **Hendricks County Area Board of Zoning Appeals**

Findings of Fact/Law and Conditions of Approval

### **SE 17-22**

An application for the above noted special exception was filed in the office of the Hendricks County Department of Planning and Building (DPB). That application sought to permit a **Home-Based Business** in an area zoned as AGR (Agriculture Residential). Acting in its role as staff to the County Board of Zoning Appeals (Board), the DPB staff subsequently created a file containing all documentation of the request and made that file available for public inspection in the County Government Center.

In accordance with Indiana Code (IC) 5-3-1 and the County Zoning Ordinance (HCZO) Section 12.7, the DPB staff published a legal notice in the *Danville Republican*. This notice advertised the public hearing scheduled in conformity with IC 36-7-4-920. The public hearing included the above special exception on its agenda.

In accordance with Section 3.07 (D)(2) of the Rules of Procedure of the Board, the applicant also sent courtesy notices to certain surrounding property owners of record and other interested persons. A copy of this notice and a list of those receiving them were made a part of the file for this Special Exception.

The Board conducted the hearing as advertised and heard evidence and testimony on the above noted Special Exception. Meeting in open session, the Board subsequently considered the above noted request and its relationship to the requirements of IC 36-7-4 and HCZO. A tape recording of this proceeding has been on file and available to the public in the DPB office since the date of the hearing.

In its deliberations, the Board weighed the evidence associated with the following requirements and made the following findings.

**IC 36-7-4-918.2 Exceptions and uses. A Board of Zoning Appeals shall approve or deny all: (1) Special Exceptions; ... from the terms of the Zoning Ordinance, but only in the classes of cases or in the particular situations specified in the Zoning Ordinance.**

**HCZO Section 12.7 authorizes the Hendricks County Board of Zoning Appeals to approve Special Exceptions.**

**HCZO Section 12.7 (D)(1). In addition to the special requirements for permitted Special Exception uses as specified in Section 12.7 (D)(2) ... the Board of Zoning Appeals ... shall find adequate evidence showing that the use at the proposed location:**



**A. Is in fact a permitted Special Exception use ... [in] the zoning district involved.**

The Board finds that a home-based business is in fact a Special Exception in the Agriculture Residential Zoning District.

**B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the County's Comprehensive Plan and the Zoning Ordinance.**

The Board finds that the proposal will meet this standard. The business meets Comprehensive Plan goals for economic development.

**C. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;**

The Board finds that the proposed use will meet this standard. The Zoning Ordinance ensures uses are harmonious and appropriate. Additionally, the use will not substantially change the appearance of the property and will not change the essential character of the area.

**D. Will be served adequately by essential public facilities and services ... or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.**

The Board finds that the proposal will meet this standard. Public facilities and infrastructure are either private or will be a provided at expense to the owner. Other public services adequately serve the area, and the use does not represent a significant increase in demand.

**E. Will not create excessive additional requirements at public cost of public facilities and services and will not be detrimental to the economic welfare of the community.**

The Board finds that the proposal will meet this standard. The property changes will not result in significant changes to the existing demand for services.

**F. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;**

The Board finds that the proposal will meet this standard. The use will not be disruptive and detrimental to the surrounding area as the majority of business activity occurs offsite.

**G. Will have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.**

The Board finds that the proposal will meet this standard. The existing entrance provides adequate access.

**H. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.**

The Board finds that the proposal will meet this standard. There will be no substantial loss in natural, scenic, or historic features with the approval of the business.

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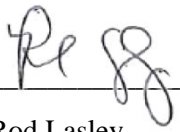
**IC 36-7-4-918.2 Exceptions and uses. The Board may impose reasonable conditions as a part of its approval.**

The Board imposed the following conditions in furtherance of the Indiana Code and the Hendricks County Zoning Ordinance:

1. There shall be no more than 3 employees.
2. All applicable federal, state, and local approvals are required.

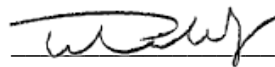
For all the foregoing reasons, the Board APPROVED this request for a Special Exception on the 21<sup>st</sup> day of November 2022.

AREA BOARD OF ZONING APPEALS  
HENDRICKS COUNTY, INDIANA



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Rod Lasley  
*Chairperson*



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Tim Dombrosky  
*Secretary*

Mr. Lasley asked if there was any further business.

Mr. Steuerwald answered that the last item on the agenda is the Approval of the 2023 BZA calendar.

Mr. Lasley proposed that the meeting time be changed from 7:30 pm to 6:30 pm.

None of the other board members had any objections to the time change.

Mr. Dombrosky said that if the board approves the change, the BZA meetings will begin at 6:30 pm starting with the January 17, 2023<sup>rd</sup> meeting.

Mr. Lasley asked for a motion.

Mr. O'Riley made a motion to approve the calendar with the time change adjustment.

Mr. Hesler seconded the motion.

Motion of approval of the 2023 calendar with the adjusted meeting time of 6:30 pm passed unanimously.

Mr. Lasley asked if there was any further business.

Being nothing further, the meeting was adjourned at 9:00 pm.